

O L S H A N

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March 23, 2016

**VIA ECF AND EMAIL**

The Honorable Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
Chambers 2210, Courtroom 15-D  
New York, NY 10007

Re: *Gemini Master Fund, Ltd. and Black Mountain Equities, Inc. v. OxySure Systems Inc., 15-cv-09546 (AT)*

Dear Judge Torres:

We represent plaintiffs Gemini Master Fund, Ltd. (“Gemini”) and Black Mountain Equities, Inc. (“BME”). Pursuant to this Court’s Order dated February 25, 2016, we submit this joint letter on behalf of all parties to advise the Court as to the status of *Oxysure Therapeutics, Inc. v. Gemini Master Fund, Ltd. et al*, No. 4:15 Civ. 00821 (E.D. Tex., filed Dec. 2, 2015) (hereinafter, the “Texas Action”).

The Texas Action is pending: Gemini and BME have filed a motion to dismiss and to transfer the matter to New York, the court has not yet ruled on that motion and has not yet set it for hearing, nor given any indication of how it intends to rule. The previously ordered scheduling conference set for March 21, 2016 was canceled until such time as the court rules on the pending motion.

Respectfully submitted,

*/s/ Thomas J. Fleming*

Thomas J. Fleming

cc: Mazin Sbaiti (by email)  
(Counsel for Defendant)